

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND EMERGENCY
PREPAREDNESS, AND PARTICIPATING TRIBES**

WHEREAS, the mission of the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security (DHS) is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards; and

WHEREAS, FEMA makes assistance available to States, Territories, Commonwealths, communities, Federally recognized Indian Tribes (Tribes), and other eligible entities through programs (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*, (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (as amended); the Sandy Recovery Improvement Act, Pub. L. No. 113-2 (2013); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR), Executive Order 13407 (2006), and such other acts, executive orders, implementing regulations, or Congressionally authorized programs as are enacted from time to time; and

WHEREAS, FEMA has determined that implementing its Programs may result in Undertakings [as defined by 54 U.S.C. § 300320 and 36 CFR § 800.16(y)] that may affect properties listed in or eligible for listing in the National Register of Historic Places (National Register) pursuant to 36 CFR Part 60 (historic properties), and FEMA has consulted with the Louisiana State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 54 U.S.C. § 306108), and the regulations implementing Section 106 of the NHPA (Section 106) at 36 CFR Part 800; and

WHEREAS, FEMA, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) have determined that FEMA's Section 106 requirements can be more effectively and efficiently implemented and delays to the delivery of FEMA assistance minimized if a programmatic approach is used to stipulate roles and responsibilities, exempt certain Undertakings from Section 106 review, establish protocols for consultation, facilitate identification and evaluation of historic properties, and streamline the assessment and resolution of adverse effects; and

WHEREAS, FEMA has developed a Prototype Programmatic Agreement (FEMA Prototype Agreement) pursuant to 36 CFR § 800.14(b)(4) in consultation with ACHP and NCSHPO to serve as a basis for negotiation of a State/Tribal specific Programmatic Agreement (Agreement) with SHPO, State/Tribal Emergency Management Agency, and/or participating Tribe(s); and

WHEREAS, this Agreement conforms to the FEMA Prototype Agreement as designated by ACHP on December, 17, 2013, and therefore does not require the participation or signature of ACHP; and

WHEREAS, DHS; ACHP; the Department of Transportation; the U.S. Department of Housing and Urban Development (HUD); the U.S. Environmental Protection Agency; the Department of the Army (Civil Works); the Department of the Interior; the Department of Commerce; the Department of Agriculture; the Department of Energy; and the Council on Environmental Quality entered into an Memorandum of Understanding (MOU) on July 29, 2014 to establish the Unified Federal Review (UFR) process to expedite and unify the process for completing environmental and historic preservation reviews required for Disaster Recovery Projects as called for by the Sandy Recovery Improvement Act and this MOU specifically identifies the FEMA Prototype Agreement as a UFR mechanism; and

WHEREAS, in order to implement its Programs, FEMA will provide assistance to the State of Louisiana and/or Tribes (Recipient(s)) that may provide monies and other assistance to eligible subrecipients, and as such, the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) that is typically responsible for administering funds provided under these Programs, has participated in this consultation, and FEMA has invited GOHSEP to execute this Agreement as an Invited Signatory; and

WHEREAS, FEMA also may directly perform its own Undertakings pursuant to this Agreement; and

WHEREAS, in anticipation or in the immediate aftermath of an event, impacted communities and the State of Louisiana, and/or affected Tribes, may conduct critical preparedness, response and recovery activities to safeguard public health and safety and/or to restore vital community services and functions before, during, and/or following an event. Some of these activities may become Undertakings requiring Section 106 review subject to the terms of this Agreement, and FEMA shall coordinate the appropriate review as warranted; and

WHEREAS, FEMA has determined that its Programs may result in Undertakings with the potential to affect historic properties having religious and cultural significance to Tribes including sites that may contain human remains and/or associated cultural items; and

WHEREAS, FEMA recognizes that the Alabama-Coushatta Tribe of Texas (ACTT); Caddo Nation (CN); Chitimacha Tribe of Louisiana (CTL); Choctaw Nation of Oklahoma (CNO); Coushatta Tribe of Louisiana (CT); Jena Band of Choctaw Indians (JBCI); Mississippi Band of Choctaw Indians (MBCI); Muscogee (Creek) Nation (MCN); Poarch Band of Creek Indians (PBCI); Quapaw Tribe of Oklahoma (QTO); Seminole Nation of Oklahoma (SNO); Seminole Tribe of Florida (STF); and Tunica-Biloxi Tribe of Louisiana (TBTL), (Tribes) may have sites of religious and cultural significance on or off Tribal Lands [as defined in 36 CFR § 800.16(x)], and in meeting its Federal trust responsibility, FEMA has engaged in government-to-government consultation with Tribe(s), and pursuant to 36 CFR § 800.2 (c)(2)(ii)(E) has invited the Tribe(s) to enter into an agreement that specifies how FEMA and the Tribe(s) will carry out Section 106 responsibilities, including the confidentiality of information; and

WHEREAS, the CN, CTL, CNO, CT, JBCI, MCN, PBCI, QTO, STF, and TBTL have assumed the responsibilities of SHPO in its/their Tribal lands through appointment of a Tribal Historic

Preservation Officer (THPO) in accordance with Section 101 of NHPA, and FEMA shall consult with THPO in lieu of SHPO for Undertakings occurring on or affecting its/their Tribal lands; and

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited ACTT; CN; CTL; CNO; CT; JBCI; MBCI; MCN; PBCI; SNO; STF; QTO; and TBTL, to enter into this Agreement as a signatory party to fulfill the requirements of Section 106; and

WHEREAS, as of the date of this Agreement, no Tribe has agreed to enter into a separate Programmatic Agreement or other agreement with FEMA; and

WHEREAS, as of the date of this Agreement, no Tribes(s) have declined to enter into this Agreement as a signatory party; and

WHEREAS, FEMA may invite additional Tribes that have sites of religious and cultural significance to enter into the terms of this Agreement as invited signatories or concurring parties in accordance with 36 CFR § 800.14(f), and nothing in this Agreement prevents a Tribe from entering into a separate Programmatic Agreement or other agreement with FEMA for administration of FEMA Programs; and

WHEREAS, the terms of this Agreement shall not apply to Undertakings on or affecting Tribal lands without prior execution of the Agreement by the affected Tribe(s); and

WHEREAS, for the review of specific Undertakings under this Agreement, FEMA may invite other agencies, organizations, and individuals to participate as consulting parties; and

NOW, THEREFORE, FEMA, Recipient(s), SHPO, and participating Tribe(s) (Signatories) agree that FEMA Programs in the State of Louisiana and/or on Tribal lands shall be administered in accordance with the following Stipulations to satisfy FEMA's Section 106 and Section 110 of the NHPA responsibilities for all resulting Undertakings and effectively integrate historic preservation compliance considerations into the delivery of FEMA assistance. FEMA will not authorize implementation of an individual Undertaking until Section 106 review is completed pursuant to this Agreement.

STIPULATIONS

To the extent of its legal authority, and in coordination with other Signatories, FEMA shall ensure that the following measures are implemented:

I. GENERAL

A. Applicability

1. The execution of this Agreement supersedes the terms of the previous Programmatic Agreement in the State of Louisiana, dated August 17, 2009 and amended on July 22, 2011 and the *Louisiana State-Specific Programmatic Agreement among the Federal Emergency Management Agency; Louisiana Governor's Office of Homeland Security and Emergency Preparedness; Louisiana State Historic Preservation Officer of the*

Department of Culture, Recreation & Tourism; Alabama-Coushatta Tribe of Texas; Chitimacha Tribe of Louisiana; Choctaw Nation of Oklahoma; Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; Seminole Tribe of Florida; and the Advisory Council on Historic Preservation regarding FEMA's Hazard Mitigation Grant Program dated January 31, 2011 (LA HMGP PA). However, the execution of this Agreement does not supersede and/or invalidate the existing Secondary Programmatic Agreement Among Federal Emergency Management Agency, State Of Louisiana Division Of Administration Office Of Community Development, Louisiana State Historic Preservation Officer, Advisory Council On Historic Preservation, Louisiana Department Of Education, Through Its Recovery School District, And Orleans Parish School Board Regarding Implementation Of School Facilities Master Plan For Orleans Parish New Orleans, Louisiana or the Secondary Programmatic Agreement Among the Federal Emergency Management Agency; the Louisiana Historic Preservation Officer; the Advisory Council on Historic Preservation; the City of New Orleans; and the United States Army Corps of Engineers Regarding the Demolition of Privately Owned Residential Buildings within Orleans Parish Damaged as a Result of Hurricanes Katrina and Rita.

2. For FEMA Undertakings that also are within the jurisdiction of the Federal Communications Commission (FCC) and within the scope of its Section 106 Programmatic Agreements for communication facilities, FEMA defers Section 106 review in accordance with the ACHP Program Comment, as amended on September 24, 2015. The approval of funding for the FEMA Undertaking shall be conditioned upon the compliance of the subrecipient with the FCC's applicable Section 106 review, including any required consultation with Tribes. FEMA shall notify SHPO/THPO when it applies the ACHP Program Comment to an Undertaking. FEMA remains responsible for any FEMA Undertakings it determines are outside the jurisdiction of FCC.
3. In the event of a Stafford Act major disaster or emergency declaration (Declaration), State, Tribal, and local governments may lack the capability to perform or to contract for emergency work, and instead request that the work be accomplished by a Federal agency. Through a mission assignment (MA), FEMA may direct appropriate Federal agencies to perform the work. This Agreement shall apply to such Federal assistance undertaken by or funded by FEMA pursuant to Titles IV and V of the Stafford Act and 44 CFR Part 206.
4. FEMA may utilize this Agreement to fulfill its Section 106 responsibilities and those of other Federal agencies that designate FEMA as the lead Federal agency pursuant to 36 CFR § 800.2(a)(2) with appropriate notification to the other Signatories and ACHP regarding Undertakings that fall within the scope of this Agreement. When FEMA is not designated as the lead Federal agency, all Federal agencies, including FEMA, remain individually responsible for their compliance with Section 106. This provision does not prevent FEMA from recognizing another Federal agency as lead Federal agency for specific Undertakings, as appropriate.
5. If another Federal program or Federal agency has concluded Section 106 consultation review and approved an Undertaking within the past five (5)-years, and no new

substantial information has been uncovered, FEMA has no further requirement for Section 106 review regarding that Undertaking provided that FEMA:

- a. Confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of its Undertaking are the same as that of the Undertaking reviewed by the previous agency, and;
 - b. Determines that the previous agency complied with Section 106, including Tribal consultation, appropriately and;
 - c. Adopts the findings and determinations of the previous agency; and
 - d. Documents these findings in its project file in order to confirm that the requirements of Section 106 have been satisfied; or
 - e. Conduct additional Section 106 consultation in accordance with the terms of this Agreement should FEMA, in consultation with SHPO and participating Tribe(s) and Federally recognized Tribes with an interest in that area, determine that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect, and/or Treatment Measures.
6. With the written concurrence of the Signatories, other Federal agencies providing financial assistance for the type of activities covered under the terms of this Agreement as outlined in Appendix A may satisfy their Section 106 responsibilities for the same type of activities by accepting and complying in writing with the terms of this Agreement.
- a. Other Federal Agencies may include States, Tribes, and units of local government who have assumed environmental responsibilities of HUD, and acting as the Responsible Entity pursuant to 24 CFR Part 58, are responsible for environmental review, decision-making and action.
 - b. In such situations, the other Federal Agency shall notify the Signatories in writing of its intent to use this Agreement to achieve compliance with its Section 106 requirements, and consult with the Signatories regarding its Section 106 compliance responsibilities. Resumes of staff who meet the Secretary of the Interior's (SOI's) *Professional Qualification Standard(s)* and will review Second Tier projects in accordance with Appendix B of this Agreement shall be provided to FEMA and SHPO/THPO.
7. FEMA has determined that the following types of activities have limited or no potential to affect historic properties and FEMA has no further Section 106 responsibilities with regards to them, pursuant to 36 CFR § 800.3(a)(1):
- a. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content

replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106. For ground disturbing activities, and construction related to 44 CFR §§ 206.117(b)(1)(ii) (temporary housing), 206.117(b)(4) (permanent housing construction), 206.117(c)(1)(vi) (repair or replacement of privately owned access routes), and repair of multi-family housing units, FEMA shall conduct Section 106 review.

- b. Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day and emergency operational activities, and the temporary storage of goods provided storage occurs within existing facilities or does not require ground disturbance.
- c. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.
- d. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard mitigation activities.
- e. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.
- f. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.
- g. Assistance provided for training, management and administration, exercises, and mobile/portable equipment purchases; with the exception of potential ground-disturbing activities and modification of existing structures.
- h. Community Disaster Loans for funding to perform administrative governmental functions for any eligible jurisdiction in a designated disaster area that has suffered a substantial loss of tax and other revenue.
- i. Funding the administrative action of acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.
- j. Funding the administrative action of acquiring properties in acquisition projects, including the real estate transaction.
- k. Labor, equipment and materials used to provide security in the Declaration area, including lease, rental, purchase or repair of equipment or vehicles and payment for staff and contract labor.
- l. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.
- m. Unemployment assistance.

- n. Distribution of food coupons.
 - o. Legal services.
 - p. Crisis counseling.
8. Any FEMA Programs authorized by the United States Congress in the future may be included in this Agreement in accordance with Stipulation IV.A, Amendments. Any change in the FEMA name, Programs, or organizational structure shall not affect this Agreement.

B. Roles and Responsibilities of the Signatories

1. FEMA:

- a. FEMA shall use Federal, Tribal, State, subrecipient, or contractor staff whose qualifications meet the Secretary's *Professional Qualifications* set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified) in applying Second Tier Programmatic Allowances (Allowances) listed in Appendix B, completing identification and evaluation of historic properties, and making determinations of effects. FEMA shall review any National Register eligibility determination and make its own findings of effect resulting from the performance of these activities prior to submitting such determinations to SHPO and participating Tribe(s).
- i. FEMA acknowledges that Tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to them. Tribal leaders, and as appropriate, their representatives, shall decide who meets qualifications/standards as defined by their Tribes for review of Undertakings affecting properties with religious and cultural significance to them.
- b. FEMA alone shall conduct all Section 106 consultation with Tribe(s). In accordance with 36 CFR § 800.2(c)(4), FEMA may authorize Recipient(s), or a subrecipient through Recipient(s), to initiate the Section 106 process with SHPO and other consulting parties, assist in identifying other consulting parties with a demonstrated interest in the Undertaking, and prepare any necessary analyses and documentation, but FEMA shall remain responsible for determinations of National Register eligibility and findings of effect recommended by the authorized party. FEMA shall follow the process set forth in Stipulation I.B.1(a), FEMA Roles and Responsibilities, and notify SHPO in writing when a Recipient or subrecipient has been authorized to initiate consultation on FEMA's behalf.
- c. Prior to authorizing the release of funds for individual Undertakings requiring grant conditions pursuant to this Agreement, FEMA shall inform Recipient(s) of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to the subrecipient. FEMA shall work in partnership with

Recipient(s) to provide subrecipients with guidance on in-kind repair pursuant to *The Secretary of the Interior's Standards for the Treatment of Historic Properties 1995 (Standards)*, 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.

- d. FEMA shall provide the other Signatories and ACHP with an annual report for the previous calendar year on or about April 30th of each year that this Agreement is in effect. This annual report will summarize the actions taken to implement the terms of this Agreement, such as, statistics on Undertakings meeting Allowances; expedited review; standard project review; resolution of adverse effects; after-the-fact consultations; use of other agency's determinations; the progress and completion of all treatment measures; and will recommend any actions or revisions to be considered, including updates to the appendices.
 - i. Any Signatory, including FEMA, may request a meeting to review the annual report or discuss issues regarding implementation of the Agreement within the thirty (30)-days following receipt of the annual report.
 - ii. FEMA will notify other Signatories of the request for the meeting; will determine if the meeting shall occur in person or by telephone; and will finalize the meeting arrangements.
- e. FEMA shall notify SHPO and affected Tribe(s), as soon as practicable, following a Declaration to provide specific points of contact and other pertinent information about the Declaration.
- f. FEMA may convene an initial scoping meeting with the Signatories and other interested parties as soon as practicable after each Declaration to address Declaration-specific issues and procedures.
- g. FEMA shall ensure that all documentation resulting from Undertakings reviewed pursuant to this Agreement is consistent with applicable SHPO and Tribal guidelines and the confidentiality provisions of 54 U.S.C. § 307103 and 36 CFR § 800.11(c).

2. SHPO:

- a. SHPO shall review FEMA's determination of the Areas of Potential Effects (APE), National Register eligibility determinations, and FEMA's effect findings and respond within timeframes set out in Stipulation I.E.2.
- b. Upon request, SHPO shall provide FEMA and/or its designee(s) with available information about historic properties (such as access to site files, GIS data, survey information, geographic areas of concern). Only Qualified staff and/or designee(s) shall be afforded access to protected historic property information. FEMA and SHPO may execute a written agreement to memorialize data sharing, and FEMA and SHPO shall execute a written agreement if the Louisiana Department of Culture,

Recreation, and Tourism (CRT) requires a fee for FEMA to remotely access restricted data.

- c. SHPO shall identify staff or consultants to assist FEMA staff with their Section 106 responsibilities, and identify, in coordination with FEMA, those activities within the Section 106 review process that SHPO may perform for specific Undertakings as agreed in writing with FEMA.
 - d. As requested, SHPO staff shall be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation with SHPO has occurred, FEMA shall provide a written summary via e-mail or regular mail to SHPO, including any decisions that were reached.
 - e. SHPO may delegate some or all of its responsibilities under this Agreement to one or more Liaisons to serve as a dedicated point of contact for consultation with FEMA. SHPO shall confer with FEMA about the selection of any Liaisons, the scope of responsibilities delegated and related implementing procedures. SHPO shall formally document these decisions for concurrence by FEMA. Liaisons are not required to be members of SHPO staff.
 - f. SHPO shall participate in an initial scoping meeting for a Declaration.
 - g. SHPO may assist local jurisdictions and/or Recipient(s) in the State of Louisiana with advance planning efforts to consider historic properties in the context of homeland security considerations, including disaster preparedness, response, recovery, and mitigation programs for which FEMA funding may be requested.
 - h. SHPO shall coordinate with FEMA, to identify consulting parties, including any communities, organizations, or individuals that may have an interest in a specific Undertaking and its effects on historic properties.
 - i. SHPO shall participate in annual reviews convened by FEMA to review the effectiveness of this Agreement in accordance with Stipulation I.B.1(d).
 - j. SHPO may request the involvement of the ACHP in the Section 106 consultation for Undertakings where the subrecipient is located within CRT.
3. Recipient(s):
- a. Recipient(s) shall ensure that their subrecipients understand and acknowledge conditions and potential requirements that may be placed upon Undertakings as a result of Section 106 consultation and the provisions of this Agreement.
 - b. Recipient(s) shall participate in an initial scoping meeting for a Declaration.

- c. Recipient(s) shall ensure that their subrecipients understand that failure to comply with any project-specific conditions that have been placed on their grants could jeopardize FEMA funding.
- d. Recipient(s) shall notify FEMA as soon as possible of any proposed change to the approved scope of work. Recipient(s) shall direct their subrecipient not to implement the changes to the proposed scope of work until any additional review required by this Agreement is complete.
- e. Recipient(s) shall ensure that its subrecipients are made aware that in the event of an unexpected discovery involving an Undertaking that has affected a previously unidentified historic property or human remains, or affected a known historic property in an unanticipated manner, the subrecipient will comply with Stipulation III.B, Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects.
- f. Recipient(s) shall ensure that in its sub-grant agreements, any scope of work involving ground disturbance, and resultant contracts to execute said work, provide for the protection of and notification protocols for unexpected discoveries or unexpected effects to historic properties and human remains.
- g. If a Signatory Tribe assumes the role of Recipient for projects on Tribal lands, the Tribe shall assume the same responsibilities as outlined in Stipulation I.B.3 of this Agreement, Roles and Responsibilities of the Signatories.

C. Tribal Consultation

1. For FEMA Undertakings on Tribal lands or affecting properties of religious and cultural significance, and where no tribe-specific consultation agreements or protocols are in place, FEMA shall consult with affected Tribe(s) in accordance with 36 CFR Part 800. In determining the specific Tribe(s) affected, FEMA will first establish that it is a type of Undertaking with potential to affect historic properties with religious and cultural significance and may consult with SHPO, Tribe(s), any State Tribal Agency, and access the National Park Service (NPS) Native American Consultation Database, the list of Tribal Areas of Interest in the State of Louisiana, <http://www.crt.state.la.us/Assets/OCD/archaeology/nativeamericancontacts/NatAmContacts.pdf>, or other tools to identify geographic Tribal interests.
2. To the extent permitted by Section 304 of NHPA, Section 9(a) of the Archeological Resources Protection Act (ARPA) (16 U.S.C. §470aa – 470mm), and any other applicable laws, FEMA shall ensure it withholds information protected by such laws from public disclosure.
3. FEMA shall invite affected Tribe(s) to participate in the initial scoping meeting within their geographic area of interest for each Declaration.

D. Public Participation

1. FEMA recognizes that the views of the public are essential to informed decision making throughout the Section 106 consultation process. FEMA shall notify the public of proposed Undertakings in a manner that reflects the nature, complexity, significance of historic properties likely affected by the Undertaking, the likely public interest given FEMA's specific involvement, and any confidentiality concerns of Tribe(s), private individuals and businesses.
2. FEMA may consult with Recipient(s), subrecipient, SHPO, and participating Tribe(s), and other consulting parties to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be included as a consulting party for the Undertaking in accordance with 36 CFR § 800.2(c)(5). If such parties are identified or identify themselves to FEMA, FEMA shall provide them with information regarding the Undertaking and its effects on historic properties, consistent with the confidentiality provisions of 36 CFR § 800.11(c).
3. In accordance with the outreach strategy developed for an Undertaking in consultation with SHPO and participating Tribe(s), for involving the public, FEMA shall identify the appropriate stages for seeking public input during the Section 106 consultation process. FEMA shall consider all views provided by the public regarding an Undertaking.
4. FEMA shall also provide public notices and the opportunity for public comment or participation in an Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 40 CFR Parts 1500-1508, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands as set out in 44 CFR Part 9, and if applicable, Executive Order 12898, Environmental Justice, provided such notices specifically reference Section 106 as a basis for public involvement.
5. Should a member of the public object in writing to implementation of the Agreement's terms, FEMA will notify the other Signatories in writing and take the objection into consideration. FEMA shall consult with the objecting party and, if that party so requests, the other Signatories, for not more than thirty (30)-days. In reaching its decision regarding the objection, FEMA shall take into consideration all comments from these parties. Within fifteen (15)-days after closure of this consultation period, FEMA shall provide the other parties with its final decision in writing.

E. Timeframes and Communications

1. All time designations shall be in calendar days unless otherwise stipulated. The review period will be extended until the next business day, if a review period included in this Agreement concludes on a Saturday, Sunday, State, or Federal holiday. If requested, FEMA will extend a review period consistent with the time designations in this Agreement for parties affected by an unanticipated state office closure in East Baton Rouge Parish declared by the Louisiana Commissioner of Administration. Any electronic communication forwarding plans or other documents for review under the

terms of this PA that is sent after 4:00 pm Central Time will be deemed to have been received by the reviewing party on the next business day. E-mail comments by the Signatories on any documents submitted for review under this Agreement are timely if they are received at any time on or before the last day of a review period. Responses sent by mail will be accepted as timely if they are postmarked by the last day allowed for the review. If any Signatory does not object to FEMA's finding or determination related to an Undertaking within an agreed upon timeframe, FEMA may proceed to the next step in the consultation process as described in Stipulation II, Project Review.

2. Due to the varied nature of Undertakings, the individual response times to FEMA's requests for comment/concurrence will vary. These response times are contingent upon FEMA ensuring that its findings and determinations are made by Qualified staff and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR § 800.11(e), and consistent with FEMA guidance.
 - a. For Emergency Undertakings as outlined in Stipulation II.B, Expedited Review of Emergency Undertakings, SHPO and participating Tribe(s) shall respond to any FEMA request for comments within three (3)-days after receipt, unless FEMA determines the nature of the emergency action warrants a shorter time period.
 - b. For Undertakings associated with the Individual Assistance (IA) and Public Assistance (PA) programs, the response time for each request for concurrence shall be a maximum of fifteen (15)-days, or in accordance with temporary timelines established by FEMA on a Declaration by Declaration basis in coordination with SHPO and participating Tribe(s).
 - c. For the Hazard Mitigation Grant Program (HMGP) and all non-disaster programs, the response time for each request for concurrence shall be a maximum of thirty (30)-days.
3. The consulting parties may send and accept official notices, comments, requests for further information and documentation, and other communications required by this Agreement by e-mail.
 - a. If the size of an e-mail message is unusually large or an e-mail is returned to a sender because its size prevents delivery, the sender will contact the recipient(s) and determine alternative methods to deliver the information.
 - b. Time-sensitive information that is not sent by e-mail should be sent by overnight mail, courier, or be hand-delivered. The timeframe for requests for review not sent by e-mail will be measured by the date the delivery is signed for by the individual recipient or the agency or organization representing the Signatory.

II. PROJECT REVIEW

A. Programmatic Allowances

1. If FEMA determines an Undertaking conforms to one or more allowances in Appendix B of this Agreement, FEMA shall complete the Section 106 review process by documenting this determination in the project file, without SHPO or tribal review or notification.
2. If the Undertaking involves a National Historic Landmark (NHL) [<https://www.nps.gov/nhl/find/statelists/la/LA.pdf>], FEMA shall notify SHPO, participating Tribe(s), and NPS NHL Program Manager of the NPS Southeast Regional Office that the Undertaking conforms to one or more Allowances. FEMA shall provide information about the proposed scope of work for the Undertaking and the Allowance(s) enabling FEMA's determination.
3. If FEMA determines any portion of an Undertaking's scope of work does not conform to one or more Allowances listed in Appendix B, FEMA shall conduct expedited or standard Section 106 review, as appropriate, for the entire Undertaking in accordance with Stipulation II.B, Expedited Review for Emergency Undertakings, or Stipulation II.C, Standard Project Review.
4. Allowances may be revised and new Allowances may be added to this Agreement in accordance with Stipulation IV.A.3, Amendments.

B. Expedited Review for Emergency Undertakings

1. Determine Expedited Review
 - a. As part of the Declaration process, FEMA shall define the time interval during which the disaster causing incident occurs (the incident period, as defined in 44 CFR § 206.32(f)). FEMA may approve direct Federal assistance and/or funding for emergency work (as defined in 44 CFR § 206.201(b)) that occurs during the incident period, including work already completed, in response to an immediate threat to human health and safety or property. Pursuant to 36 CFR § 800.12(d), FEMA may conduct expedited review of emergency Undertakings for thirty (30)-days from the beginning of the incident period.
 - b. Should FEMA determine that it is necessary to extend the expedited review period for emergency Undertakings beyond the initial thirty (30)-days, FEMA shall, in thirty (30)-day increments, as needed, notify in writing ACHP, SHPO, GOHSEP, other Recipient(s), as appropriate, and participating Tribe(s).

2. Conduct Expedited Reviews

- a. If the emergency Undertaking is an immediate rescue and salvage operation conducted in response to an event to preserve life and property, FEMA has no Section 106 consultation responsibilities in accordance with 36 CFR § 800.12(d); or
 - b. If the emergency Undertaking meets one or more of the Allowances in Appendix B of this Agreement, FEMA shall complete the Section 106 review process pursuant to Stipulation II.A.1, Programmatic Allowances.
 - c. If FEMA determines that the emergency Undertaking would adversely affect a historic property during this expedited review period:
 - i. To the extent practicable, FEMA will propose Treatment Measures that would address adverse effects during implementation, and request the comments of SHPO and participating Tribe(s) within three (3)-days of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period.
 - ii. FEMA may provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA shall clarify that an “expedited review” is being requested for the Undertaking.
 - iii. FEMA shall take into account any timely comments provided by SHPO and/or participating Tribe(s) in making a decision on how to proceed.
 - iv. Should SHPO and/or participating Tribe(s) not comment within three (3)-days, FEMA shall complete Section 106 consultation for the Undertaking based on the available information.
 - v. FEMA shall notify SHPO and participating Tribe(s) of the final decision, indicating how any comments received were considered in reaching that decision.
- C. Standard Project Review: For Undertakings not exempt from further Section 106 review, FEMA shall ensure that the following standard project review steps are implemented. In the interest of streamlining, FEMA may combine some or all of these steps during consultation in accordance with 36 CFR § 800.3(g).
- 1. Consulting Parties: FEMA shall consider all written requests of individuals and organizations to participate as consulting parties, and consult with SHPO and participating Tribe(s) to identify any other parties that meet the criteria to be consulting parties and invite them to participate in the Section 106 process. FEMA may invite others to participate as consulting parties as the Section 106 consultation proceeds. FEMA shall invite any individual or organization that will assume a specific role or responsibility outlined in a Memorandum of Agreement (MOA) or Programmatic Agreement to participate as an invited signatory to the agreement.

2. Area of Potential Effects:

- a. For standing structures not adjacent to or located within the boundaries of a National Register listed or eligible district, Qualified staff may define the APE as the individual structure when the proposed Undertaking is limited to its repair or rehabilitation (as defined in 36 CFR § 68.2(b)).
- b. For all other Undertakings, Qualified staff shall determine the APE in consultation with SHPO and participating Tribe(s). FEMA may consider information provided by other parties, such as local governments and the public, when establishing the APE.

3. Identification and Evaluation: Qualified staff shall determine, in consultation with SHPO and participating Tribe(s) if the APE contains historic properties, including properties of religious and cultural significance. This may include the review of documentation provided by Recipient(s) or subrecipient in coordination with SHPO.

- a. Level of Effort: FEMA shall make a reasonable and good faith effort to identify historic properties in accordance with 36 CFR § 800.4(b)(1). FEMA may consult with SHPO to determine the level of effort, methodology necessary to identify and evaluate a variety of historic property types, and any reporting requirements. For properties of religious and cultural significance to affected Tribe(s), FEMA shall consult with the affected Tribe(s) to determine geographical areas containing them that may be affected by an Undertaking and determine the necessary level of effort to identify and evaluate or avoid any such historic properties.
- b. National Historic Landmarks: When FEMA identifies an Undertaking with the potential to affect an NHL, FEMA shall contact NPS NHL Program Manager of the Southeast NPS Regional Office in addition to SHPO, participating Tribe(s), and other consulting parties. The purpose of this notification is to ensure early coordination for the Undertaking which FEMA later may determine adversely affects the NHL as outlined in Stipulation II.A.2.
- c. Determinations of Eligibility: FEMA shall review or determine National Register eligibility based on identification and evaluation efforts, and consult with SHPO, participating Tribe(s), and other consulting parties regarding these determinations. Should SHPO, participating Tribe(s), or another consulting party disagree with the determination of eligibility, FEMA shall either:
 - i. Elect to consult further with the objecting party until the objection is resolved;
 - ii. Treat the property as eligible for the National Register; or
 - iii. Obtain a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4(c)(2).

4. Findings of No Historic Properties Affected: FEMA shall make a finding of “no historic

properties affected” under the following circumstances:

- a. If no historic properties are present in the APE; or
 - b. The Undertaking is designed to avoid effects to historic properties, including National Register listed or eligible properties of religious or cultural significance to participating Tribe(s); or
 - c. The Undertaking does not affect the character defining features of a historic property.
 - d. FEMA shall notify SHPO, participating Tribes(s), and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d). Unless SHPO or participating Tribe(s), objects to the finding within the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, the Section 106 review of the Undertaking will have concluded.
 - e. If SHPO or participating Tribe(s), objects to a finding of “no historic properties affected,” FEMA shall consult with the objecting party to resolve the disagreement.
 - i. If the objection is resolved, FEMA either may proceed with the Undertaking in accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation II.C.5, Application of the Criteria of Adverse Effect, below.
 - ii. If FEMA is unable to resolve the disagreement, it will forward the finding and supporting documentation to ACHP and request that ACHP review FEMA’s finding in accordance with 36 CFR § 800.4(d)(1)(iv)(A) through 36 CFR § 800.4(d)(1)(iv)(C). FEMA shall consider ACHP’s recommendation in making its final determination. If FEMA’s final determination is to reaffirm its “no historic properties affected” finding, the Section 106 review of the Undertaking will have concluded. Otherwise, FEMA will proceed to Stipulation II.C.5., below.
5. Application of the Criteria of Adverse Effect: If FEMA finds an Undertaking may affect historic properties in the APE, including those of religious or cultural significance to affected Tribe(s), FEMA shall apply the criteria of adverse effect to historic properties within the APE(s) including cumulative effects taking into account the views of the consulting parties and the public concerning effects in accordance with 36 CFR § 800.5(a).
- a. If FEMA determines that an Undertaking does not meet the adverse effect criteria, FEMA shall propose a finding of “no adverse effect” in accordance with 36 CFR § 800.5(b).

- i. FEMA shall notify SHPO, participating Tribe(s), and all other consulting parties of its finding; describe any project specific conditions and future submissions; and provide supporting documentation pursuant to 36 CFR §800.11(e).
 - ii. Unless a consulting party objects within the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, FEMA will proceed with its “no adverse effect” determination and conclude the Section 106 review.
 - iii. If a consulting party objects to a finding of “no adverse effect,” FEMA will consult with the objecting party to resolve the disagreement.
 - 1) If the objection is resolved, FEMA shall proceed with the Undertaking in accordance with the resolution; or
 - 2) If the objection cannot be resolved, FEMA shall request that ACHP review the findings in accordance with 36 CFR § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. FEMA shall consider ACHP’s comments in making its final determination.
- b. If FEMA finds the Undertaking may adversely affect historic properties, FEMA shall request through Recipient(s) that the subrecipient revise the scope of work to substantially conform to the *Standards*, and/or avoid or minimize adverse effects for National Register listed or eligible traditional cultural properties and/or archaeological properties.
 - i. If the subrecipient modifies the scope of work to avoid the adverse effect(s), FEMA shall notify SHPO, participating Tribe(s), and all other consulting parties, of its finding; describe any project specific conditions and future submissions; and provide supporting documentation pursuant to 36 CFR §800.11(e). Unless a consulting party makes a timely objection in accordance with the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, FEMA shall proceed with its “no adverse effect” determination, including any conditions, and conclude the Section 106 review.
 - ii. If an Undertaking is not modified to avoid the adverse effect(s), FEMA shall initiate consultation to resolve the adverse effect(s) in accordance with Stipulation II.C.6, Resolution of Adverse Effects.
- 6. Resolution of Adverse Effects: If FEMA determines that an Undertaking may adversely affect a historic property, it shall resolve the effects of the Undertaking in consultation with SHPO, Recipient(s), subrecipient, participating Tribe(s), ACHP, if participating, and other consulting parties, by one of the following methods depending upon the severity of the adverse effect(s), as well as determination of the historic property’s significance on a local, state or national level. When FEMA determines an Undertaking will adversely affect an NHL, FEMA shall notify and invite the Secretary and ACHP to participate in consultation in accordance with 36 CFR § 800.10. When ACHP

participates in consultation related to an NHL, ACHP shall report the outcome of the consultation to the Secretary and the FEMA Administrator.

- a. **Abbreviated Consultation Process:** After taking into consideration the significance of the historic properties affected, the severity of the adverse effect(s) and avoidance or minimization of the adverse effect(s), FEMA may propose in writing to the consulting parties to resolve the adverse effects of the Undertaking through the application of one or more Treatment Measures outlined in Appendix C as negotiated with SHPO, participating Tribes, and other consulting parties. The use of these Treatment Measures may not require the execution of an MOA or Programmatic Agreement.
 - i. In consultation with SHPO, participating Tribe(s), and other consulting parties, FEMA shall propose in writing the implementation of a specific Treatment Measure, or combination of Treatment Measures, with the intent of expediting the resolution of adverse effects, and provide documentation as required by 36 CFR § 800.11(e) and subject to the confidentiality provisions of 36 CFR § 800.11(c)). Unless a consulting party or ACHP objects to FEMA's proposal within the timeframe outlined in Stipulation I.E, Timeframes and Communications, FEMA shall proceed with the implementation of the Treatment Measure(s) and will conclude the Section 106 review.
 - ii. If any of the consulting parties or ACHP objects within the timeframe outlined in Stipulation I.E, Timeframes and Communications, to the resolution of adverse effects through the application of the Abbreviated Consultation Process, FEMA shall resolve the adverse effect(s) using procedures outlined below in Stipulation II.C.6 (b), MOA or Stipulation II.C.6 (c), Programmatic Agreement.
 - iii. Because funding and implementation details of Treatment Measures for specific Undertakings may vary by program, FEMA shall provide written notice to the consulting parties within sixty (60)-days of the completion of the Treatment Measure(s). This written notice will serve as confirmation that the Treatment Measure(s) for a specific Undertaking have been implemented. FEMA also shall include information pertaining to the progress and completion of Treatment Measures in the annual report pursuant to Stipulation I.B.1(d), FEMA Roles and Responsibilities.
- b. **Memorandum of Agreement:** FEMA shall provide ACHP with an adverse effect notice in accordance with 36 CFR § 800.6(a)(1) if it has not already provided such under the Abbreviated Consultation Process of this Agreement, if a consulting party or ACHP objects in accordance with Stipulation II.C.6(a)(ii), or if FEMA in consultation with SHPO, participating Tribe(s), and other consulting parties has determined that an MOA would be more appropriate to resolve the adverse effect(s). In consultation with SHPO, participating Tribe(s), and other consulting parties, including ACHP (if participating), FEMA shall develop an MOA, in accordance with 36 CFR § 800.6(c) to agree upon Treatment Measures to avoid, minimize, and/or mitigate adverse effects on historic properties. The MOA may also include

Treatment Measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of more traditional Treatment Measures.

- c. Programmatic Agreement: Should the execution of an MOA be inappropriate given the similar nature of effects on historic properties, the inability to determine effects prior to approval of an Undertaking, or where other circumstances warrant, FEMA, shall consult with SHPO, participating Tribe(s), ACHP, if participating, and any other consulting parties to develop a Programmatic Agreement in accordance with 36 CFR § 800.14(b) and identify programmatic conditions or Treatment Measures to govern the resolution of potential or anticipated adverse effects from certain complex project situations for an Undertaking or for multiple, but similar Undertakings by a single subrecipient.
7. Objections: Should any signatory or consulting party object within the timeframes established by this Agreement to any plans, specifications, or actions taken pursuant to resolving an adverse effect, FEMA shall consult further with the objecting party to seek resolution. If FEMA determines the objection cannot be resolved, FEMA shall address the objection in accordance with Stipulation IV.B, Dispute Resolution.

III. OTHER CONSIDERATIONS

- A. Changes to an Approved Scope of Work: Recipient(s) shall notify FEMA and shall require a subrecipient to notify it immediately when a subrecipient proposes changes to an approved scope of work for an Undertaking.
 1. If FEMA determines the change has no potential to affect the property, meets an Allowance, or the previous effect determination is still applicable, FEMA shall approve the change.
 2. If FEMA determines that the change can be modified to meet an Allowance, conform to any applicable *Standards*, or a previously determined finding of effect is still applicable, FEMA shall conclude its Section 106 review responsibilities.
 3. If FEMA determines that the change does not meet an Allowance; may cause additional effects to the property; does not conform to any applicable *Standards*; or changes a previously determined finding of effect, FEMA shall initiate consultation pursuant to Stipulation II.C, Standard Project Review.
- B. Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects: Recipient(s) shall require its subrecipient to notify it immediately of an unexpected discovery (including archaeological deposits found in tree root balls during removal), or if it appears that an Undertaking has affected a previously unidentified property, or affected a known historic property in an unanticipated manner, in accordance with Stipulation I.B.3(e), Recipient(s) Roles and Responsibilities. In addition, any Signatory may notify FEMA if it learns of an unexpected discovery, previously unidentified property, or unexpected effects. Following such notice, FEMA will, at the earliest possible time, notify Recipient and

subrecipient and request that Recipient and subrecipient manage the unexpected discovery, previously unidentified property, or unexpected effects by following the steps set out below:

1. The Recipient(s) shall notify FEMA at the earliest possible time, but no later than twenty-four (24)-hours after Recipient(s) received notification regarding the discovery, previously unidentified property or unexpected effects and the steps that have been taken to secure the site.
2. Recipient(s) shall require its subrecipient stop construction activities in the vicinity of the discovery or unexpected effects, restrict access to the affected area or deposits, and secure the area. Recipient(s) shall inform subrecipient that work in the APE will not be resumed until FEMA completes consultation to consider the effects of the Undertaking on the unexpected discovery or unexpected effects. Subrecipient may be instructed by FEMA and Recipient(s) that work can be resumed in areas beyond the extent of the unexpected discovery, archeological deposit identified by an archaeologist who meets the Professional Qualifications, or unexpected effects as determined by FEMA.
3. Subrecipient will document the unexpected discovery or effects in writing, if requested by the Recipient(s).
4. Subrecipient shall take all reasonable measures to avoid or minimize harm to the property until FEMA has completed consultation with the SHPO, participating Tribe(s), and any other consulting parties and subrecipient has implemented any additional measures identified during FEMA's consultation.
5. Subrecipient shall comply with the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 et seq.) if unmarked graves, indications of a burial, burials, human remains, or burial artifacts are discovered during the implementation of a FEMA funded undertaking on privately-owned lands or lands owned by a state or local governmental entity. Within seventy-two (72)-hours after the discovery, subrecipient shall notify the local law enforcement office and the Louisiana Division of Archaeology (LDOA), within the Louisiana Department of Culture, Recreation and Tourism, Office of Cultural Development at 225-342-8170 to assess the nature and age of the human skeletal remains. If the appropriate local official determines that the human skeletal remains are not a crime scene and older than fifty (50)-years of age, LDOA has jurisdiction over the remains. In cases where the human remains are determined to be Native American, the LDOA shall notify and coordinate with Tribes as required by the state law. FEMA will assist LDOA, as requested, to consult with Tribes, Recipient(s), and subrecipient, as appropriate.
6. Discoveries of unmarked graves, burials, human remains, or items of cultural patrimony on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170) and the Archaeological Resources Protection Act of 1979 (ARPA)(16 U.S.C. §470aa – 470mm).

7. Recipient and its subrecipient shall assist FEMA in completing the following actions, as required:
 - a. FEMA shall notify SHPO, participating Tribe(s), and other parties that may have an interest in discovery of the previously unidentified property or unexpected effects at the earliest possible time, but no later than seventy-two (72)-hours after FEMA is notified by Recipient(s) or Signatory. FEMA shall consult with SHPO, participating Tribe(s), and other consulting parties in accordance with the consultation process outlined in Stipulation II, Project Review, to develop a mutually agreeable action plan with timeframes to identify the discovery or previously unidentified property and determine the National Register eligibility of any previously unidentified property; take into account the effects of the Undertaking on historic properties; resolve adverse effects if necessary; and ensure compliance with applicable Federal, State, and local statutes.
 - b. FEMA shall coordinate with Recipient(s) and subrecipient regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the Undertaking.
 - c. In cases where discovered human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representatives and SHPO. In addition, FEMA shall follow the guidelines outlined in the ACHP's *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (2007) and any state-specific policies that may be in force.

C. Curation

1. Recovered archaeological collections from a FEMA-funded archaeological survey, evaluation, and mitigation remain the property of the land owner. FEMA and Recipient(s), in coordination with SHPO and affected Tribe(s) shall encourage private land owners to transfer any recovered artifacts and related documentation to an appropriate archive or public or Tribal entity. FEMA, in coordination with SHPO and affected Tribe(s), shall work with all Tribal, State, and local subrecipients to support steps that ensure the long-term curation of these artifacts and documents through the transfer of the materials to a suitable repository as agreed to by FEMA, SHPO, and affected Tribes(s) and following applicable State or Tribal guidelines. FEMA shall ensure that recovered artifacts, as well as field and laboratory records sufficient to document the collection, are curated in a suitable repository as agreed to by FEMA, SHPO, and affected Tribe(s), and follow applicable State or Tribal guidelines.
2. Human Remains: The disposition of human remains and associated burial items will comply with the Louisiana Unmarked Burial Sites Preservation Act (R.S. 8:681) if on private or state lands.

D. Review of Undertakings Initiated Before Initiation or Completion of Section 106 Review

1. In accordance with Section 110(k) of NHPA, FEMA shall not grant assistance to a subrecipient who, with intent to avoid the requirements of this Agreement or Section 106 of NHPA, has intentionally significantly and adversely affected a historic property to which the assistance would relate, or having legal power to prevent it, allowed an adverse effect to occur. However, if after consultation with SHPO, appropriate Tribes(s), and ACHP, FEMA determines that extraordinary circumstances justify granting assistance despite the adverse effect created or permitted by the subrecipient, FEMA shall complete consultation for the Undertaking pursuant to the terms of this Agreement.
2. FEMA shall specifically advise Recipient(s) and shall require that Recipient(s) advise its subrecipients in writing that they may jeopardize Federal funding if work is performed without all required local, State, and Federal licenses, permits and/or approvals, including the completion of the Section 106 process. FEMA also shall document this requirement in its Record of Environmental Consideration, as applicable, as well as all project approval documents specifying the project scope and limits, and containing all conditions and caveats.
3. In circumstances where FEMA determines a subrecipient has initiated an Undertaking without willful intent to avoid the requirements of this Agreement or Section 106 of NHPA, FEMA shall proceed as follows:
 - a. Determine if the Undertaking is of a type for which FEMA has no further Section 106 responsibilities, namely:
 - i. An Undertaking listed in Stipulation I.A.7; or
 - ii. An immediate rescue and salvage operation in accordance with 36 CFR § 800.12(d); or
 - iii. A Programmatic Allowance as described under Stipulation II.A.
 - b. In any such cases listed in Stipulation III.D.3.a., above, FEMA shall document this determination in the project files, and consider the Undertaking Section 106 compliant.
 - c. If FEMA determines the Undertaking would have required Section 106 review, FEMA shall coordinate with SHPO and appropriate Tribe(s) to determine if consultation is feasible.
 - i. If after coordination with SHPO and appropriate Tribe(s), FEMA determines that consultation is feasible, FEMA shall review the Undertaking in accordance with Stipulation II.C, Standard Project Review.
 - ii. If after coordination with SHPO and appropriate Tribe(s), FEMA determines that review is infeasible, FEMA shall document the outcome to the Section 106 review process and inform the Federal Preservation Officer (FPO), and the

applicable FEMA program shall take the outcome into account before making a decision whether to fund the Undertaking. FEMA shall provide written notification of its funding decision to SHPO, GOHSEP, other Recipient(s), if any, appropriate Tribe(s), and ACHP.

4. FEMA shall ensure that all Undertakings considered for after the fact review in accordance with this stipulation are included in the annual report pursuant to Stipulation I.B.1(d), FEMA Roles and Responsibilities.

IV. IMPLEMENTATION OF AGREEMENT

A. Amendments

1. If any Signatory determines that an amendment to the terms of this Agreement must be made, the Signatories shall consult for no more than ninety (90)-days to seek amendment of the Agreement.
2. An amendment to this Agreement, exclusive of the appendices, shall be effective only when it has been signed by all the Signatories. An amendment shall be effective for Undertakings occurring on or affecting historic properties on Tribal lands only when the Tribe has signed the Agreement and its amendment.
3. Appendix A (FEMA Programs), Appendix B (Programmatic Allowances), and Appendix C (Treatment Measures) may be amended at the request of FEMA or another Signatory in the following manner:
 - a. FEMA, on its own behalf or on behalf of another Signatory, shall notify the Signatories of the intent to modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all Signatory parties.
 - b. If no Signatory objects in writing within thirty (30)-days of receipt of FEMA's proposed modification, FEMA shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amendment shall go into effect on the date FEMA transmits the amendment to the other Signatories.

B. Dispute Resolution

1. Should any Signatory object in writing to the terms of this Agreement or to any plans, specifications, or actions provided for review pursuant to this Agreement, FEMA shall consult with the objecting party for not more than ninety (90)-days to resolve the objection.
2. If the objection is resolved within ninety (90)-days, FEMA shall proceed in accordance with the resolution.

3. If FEMA determines within ninety (90)-days that the objection cannot be resolved, FEMA shall forward to ACHP all documentation relevant to the objection, including FEMA's proposed resolution. Within thirty (30)-days of receipt, ACHP will:
 - a. Concur with FEMA's proposed resolution; or
 - b. Provide FEMA with recommendations, which FEMA shall take into account in reaching a final decision regarding the objection; or
 - c. Notify FEMA that the objection will be referred for comment in accordance with 36 CFR § 800.7(a)(4), and proceed to do so.
4. FEMA shall take into account any ACHP recommendations or comments, and any comments from the other Signatories, in reaching a final decision regarding the objection. FEMA shall provide in writing to ACHP and Signatories a summary of its final decision before authorizing any disputed action to proceed. The Signatories shall continue to implement all other terms of this Agreement that are not subject to objection.
5. Should ACHP not respond within thirty (30)-days, FEMA may assume ACHP has no comment and proceed with its proposed resolution to the objection after providing ACHP and Signatories a written summary of its final decision.

C. Severability and Termination

1. In the event any provision of this Agreement is deemed by a Federal court to be contrary to, or in violation of, any applicable existing law or regulation of the United States of America, only the conflicting provision(s) shall be deemed null and void, and the remaining provisions of the Agreement shall remain in effect.
2. FEMA, SHPO, ACHP, GOHSEP, or other Recipient(s) who execute this PA as a Signatory may terminate this Agreement by providing thirty (30)-days written notice to the other Signatories, provided that the Signatories consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, FEMA shall comply with Section 106 through other applicable means pursuant to 36 CFR Part 800. Upon such determination, FEMA shall provide all other Signatories and ACHP with written notice of the termination of this Agreement.
3. A participating Tribe organization may notify the other Signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, FEMA shall review Undertakings that may affect historic properties of religious and cultural significance to the Tribe, and Undertakings that occur on the Tribal lands of the relevant Tribe, in accordance with 36 CFR §§ 800.3 through 800.7, 36 CFR § 800.8(c), or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Tribe does not terminate the Agreement. At any time that this Agreement remains in effect, a Tribe that has withdrawn from the Agreement may notify FEMA, Recipient(s), and SHPO in writing that it has rescinded its notice withdrawing from participation in the Agreement.

4. This Agreement may be terminated by the implementation of a subsequent Agreement, pursuant to 36 CFR § 800.14(b), that explicitly terminates or supersedes this Agreement, or by FEMA's implementation of Alternate Procedures, pursuant to 36 CFR § 800.14(a).

D. Duration and Extension

1. This Agreement shall remain in effect from the date of execution for a period not to exceed seven (7)-years unless otherwise extended pursuant to Stipulation IV.D.2 below, or terminated pursuant to Stipulation IV.C.2 or IV.C.4, Severability and Termination. The Agreement shall remain in effect for Declarations made prior to expiration of the Agreement until a new Agreement is executed in order to minimize delays in delivery of FEMA assistance.
2. The Signatories may collectively agree to extend this Agreement to cover additional calendar years, or portions thereof, through an amendment per Stipulation IV.A., provided that the original Agreement has not expired.


E. Execution and Implementation

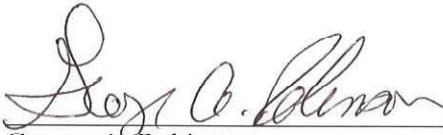
1. This Agreement may be executed in counterparts, with a separate page for each Signatory, and shall become effective on the date of the final signature of FEMA and SHPO/THPO.
2. The Agreement shall go into effect regarding Undertakings occurring, or affecting historic properties, on Tribal lands when the subject Tribe has signed the Agreement.
3. FEMA shall ensure that each Signatory and Invited Signatory is provided with an electronic (pdf) copy of the Agreement including signatures. FEMA shall provide electronic copies of additional executed signature pages to the Signatories and Invited Signatories as they are received. FEMA shall provide a complete copy of the Agreement with original signatures to any Signatory on request.
4. Execution and implementation of this Agreement is evidence that FEMA has afforded ACHP a reasonable opportunity to comment on FEMA's administration of all referenced Programs, and that FEMA has satisfied its Section 106 responsibilities for all individual Undertakings of its referenced Programs.

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

SIGNATORY PARTIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

 Date: 12/20/16
Kevin Jaynes
Regional Environmental Officer
Region 6

 Date: 12/20/16
George A. Robinson
Regional Administrator
Region 6

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

LOUISIANA STATE HISTORIC PRESERVATION OFFICER



Phillip E. Boggan II
State Historic Preservation Officer

Date: 12-20-16

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

**GOVERNOR'S OFFICE OF HOMELAND SECURITY AND EMERGENCY
PREPAREDNESS**



James B. Waskom

Director

Governor's Office of Homeland Security and Emergency Preparedness

Date: 12-21-16

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR’S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

TRIBAL SIGNATURE PAGES:

FEMA invited the Alabama-Coushatta Tribe of Texas (ACTT); Caddo Nation (CN); Chitimacha Tribe of Louisiana (CTL); Choctaw Nation of Oklahoma (CNO); Coushatta Tribe of Louisiana (CT); Jena Band of Choctaw Indians (JBCI); Mississippi Band of Choctaw Indians (MBCI); Muscogee (Creek) Nation (MCN); Poarch Band of Creek Indians (PBCI); Seminole Nation of Oklahoma (SNO); Seminole Tribe of Florida (STF); Quapaw Tribe of Oklahoma (QTO); and Tunica-Biloxi Tribe of Louisiana (TBTL) to participate in the consultation to develop this Agreement and to enter into this Agreement as an Invited Signatory.

FEMA also invited ACTT, CN, CTL, CNO, CT, JBCI, MBCI, MCN, PBCI, SNO, STF, QTO, and TBTL to notify FEMA if the Tribe may have an initial interest in executing this Agreement and signature pages for all Tribes indicating an initial interest are included in this Agreement.

FEMA will initiate government-to-government consultation with all other Tribes that may have an interest in historic properties, including properties of religious and cultural significance, in the State of Louisiana as these Tribes are identified by FEMA. In addition to providing these Tribes with the opportunity to enter into a separate Programmatic Agreement or other agreement with FEMA to address FEMA’s Section 106 responsibilities for its Undertakings in the State of Louisiana, FEMA will invite each Tribe to enter into this Agreement as an Invited Signatory.

FEMA will incorporate additional executed signature pages by Tribal Invited Signatories into this Agreement in the order they are received by FEMA.

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR’S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

ALABAMA-COUSHATTA TRIBE OF TEXAS

By: _____
Colabe III Clem Sylestine
Principal Chief

Date: _____

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR’S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

CHITIMACHA TRIBE OF LOUISIANA

By: _____
O’Neill Darden
Chairman

Date: _____

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

CHOCTAW NATION OF OKLAHOMA

By: 
Gary Batton
Chief

Date: 12/7/17

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR’S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

COUSHATTA TRIBE OF LOUISIANA

By: _____
Lovelin Poncho
Chairman

Date: _____

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR’S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**


JENA BAND OF CHOCTAW INDIANS

By: _____
B. Cheryl Smith
Chief

Date: _____

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR'S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

MUSCOGEE (CREEK) NATION

By: 
James Floyd
Principal Chief

Date: 04/04/2017

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
THE GOVERNOR’S OFFICE OF HOMELAND SECURITY AND
EMERGENCY PREPAREDNESS, AND PARTICIPATING TRIBES**

SEMINOLE TRIBE OF OKLAHOMA

By: _____
Leonard M. Harjo
Principal Chief

Date: _____

TABLE A (updated 04/2020)
CONTACT INFORMATION FOR SIGNATORIES

Signatories shall provide FEMA with updated contact information as it becomes available, and revisions to this Table will be made without an amendment to this Agreement. This Table will be updated annually by FEMA and included in the Annual Report.

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Appendix A

FEMA Program Summaries

Disaster Response and Recovery Programs

The following programs are authorized under Titles IV and V of the Stafford Act.

Fire Management Assistance Grant Program (FMAG)

The FMAG is available to State, Tribal, and local governments for the mitigation, management, and control of fires on publicly or privately owned lands. Eligible costs may include expenses for field camps, equipment use, repair and replacement, materials and supplies, and mobilization and demobilization activities.

Hazard Mitigation Grant Program (HMGP)

The HMGP provides grants to States, Territories, Tribes, and local governments to implement long-term hazard mitigation measures after a Declaration. Activities may include buyouts, retrofits, relocations, elevations, and minor flood control projects.

Individual Assistance Programs (IA)

These programs help to ensure that individuals and families that have been affected by disasters have access to the full range of FEMA assistance including: crisis counseling (Section 416), disaster legal services (Section 415), essential assistance (Section 403), emergency sheltering assistance (Section 403), transportation (Section 419), funeral services, minor home repairs (Section 408), and temporary housing assistance (Section 408). It should be noted that other Federal agencies provide disaster assistance programs, services, and activities to individuals as well, including the U.S. Small Business Administration, U.S. Department of Agriculture, and U.S. Department of Labor, but these other assistance programs are not subject to the terms of this Agreement.

Public Assistance Program (PA)

This program assists States, Tribal and local governments, and certain types of private nonprofit organizations quickly respond to and recover from major disasters or emergencies declared by the President. Grants are provided for debris removal (Category A), emergency protective measures (Category B), and the repair, replacement, or restoration of disaster-damaged, publicly owned and certain private non-profit facilities (Categories C-G).

Non-Disaster Programs

Assistance to Firefighters Grant Program (AFG)

The AFG program provides funding for purchase of equipment and retrofit or construction of fire stations to improve first responder capabilities.

Emergency Management Performance Grants (EMPG)

The purpose of the EMPG program is to assist State and local governments in enhancing and sustaining all-hazards emergency management capabilities.

Flood Mitigation Assistance Program (FMA)

The FMA program provides grants to States, Territories, Tribal entities, and communities to assist in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures insurable under the National Flood Insurance Program (NFIP).

Freight Rail Security Grant Program (FRSGP) The FRSGP funds security training for frontline employees, the completion of vulnerability assessments, the development of security plans within the freight rail industry and GPS tracking systems for railroad cars transporting toxic inhalation materials.

Homeland Security Grant Program (HSGP)

The HSGP plays an important role in the implementation of the National Preparedness System by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal (NPG) of a secure and resilient Nation. HSGP is comprised of three interconnected grant programs: (1) the State Homeland Security Program (SHSP), (2) the Urban Areas Security Initiative (UASI), and (3) the Operation Stonegarden (OPSG). Together, these grant programs and other future projects that may be included under the HSGP fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, management, and administration.

Integrated Public Alert and Warning System (IPAWS)

The Integrated Public Alert and Warning System (IPAWS) was established by Executive Order 13407 in 2006. In the event of a national emergency, the President may use IPAWS to send a message to the American people quickly and simultaneously through multiple communications pathways. FEMA has identified several radio transmission sites across the nation with significantly powerful signals for this purpose, and FEMA is responsible for upgrading, maintaining, and managing the agency installed and owned auxiliary fuel systems at each of these radio transmission sites.

Intercity Bus Security Grant Program (IBSGP)

The IBSGP provides funding to create a sustainable program for the protection of intercity bus systems and the traveling public from terrorism. The program seeks to assist operators of fixed-route intercity and charter bus services in obtaining the resources required to support security measures such as enhanced planning, facility security upgrades and vehicle and driver protection.

Intercity Passenger Rail (Amtrak)

The purpose of the Intercity Passenger Rail (IPR) is to create a sustainable, risk-based effort to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters and other emergencies within the Amtrak rail system.

Nonprofit Security Grant Program (NSGP)

NSGP provides funding support for target-hardening activities to nonprofit organizations that are at high risk of a terrorist attack and are located within one of the specific UASI-eligible urban areas.

Operation Stonegarden (OPSG)

The intent of OPSG is to enhance cooperation and coordination among local, State and Federal law enforcement agencies in a joint mission to secure the United States borders along routes of ingress from international borders to include travel corridors in States bordering Mexico and Canada, as well as States and territories with international water borders.

Port Security Grant Program (PSGP)

The PSGP provides grant funding to port areas for the protection of critical port infrastructure from terrorism. PSGP funds are primarily intended to assist ports in enhancing maritime domain awareness, enhancing risk management capabilities to prevent, detect, respond to and recover from attacks involving improvised explosive devices (IEDs), weapons of mass destruction (WMDs) and other non-conventional weapons, as well as training and exercises and Transportation Worker Identification Credential (TWIC) implementation.

Pre-Disaster Mitigation Program (PDM)

The PDM program provides competitive grants to States, Territories, Tribes, and local governments for hazard mitigation planning and the implementation of mitigation projects prior to a disaster event. Activities may include planning, buyouts, retrofits, relocations, elevations, minor flood control projects, and vegetative fuels reduction.

State Homeland Security Program (SHSP)

This core assistance program provides funds to build capabilities at the state and local levels and to implement the goals and objectives included in state homeland security strategies and initiatives in the State Preparedness Report.

State Homeland Security Program Tribal (SHSP Tribal)

To provide supplemental funding to directly eligible tribes to help strengthen the nation against risks associated with potential terrorist attacks. Pursuant to the 9/11 Act, “a directly eligible tribe applying for a grant under section 2004 [SHSP] shall designate an individual to serve as a tribal liaison with [DHS] and other Federal, state, local, and regional government officials concerning preventing, preparing for, protecting against and responding to acts of terrorism.”

Transit Security Grant Program (TSGP)

The TSGP provides grant funding to the nation’s key high-threat urban areas to enhance security measures for their critical transit infrastructure including bus, ferry and rail systems.

This appendix includes all programs administered by FEMA that have the potential to affect historic properties and may be amended in accordance with Stipulation IV.A., Amendments.

Appendix B

Programmatic Allowances

This list of Programmatic Allowances (Allowances) enumerates FEMA-funded activities that based on FEMA experience, may have no or minimal effect on historic properties if implemented as specified in this Appendix and will not require review by the SHPO and participating Tribe(s). Should an unexpected discovery, unidentified property, or unexpected effect be encountered, work must stop and compliance with Stipulation III.B is required.

The Allowances consist of two tiers – First Tier and Second Tier. Staff meeting the applicable SOI Professional Qualifications Standards in accordance with Stipulation I.B(1)(a) of this Agreement may apply Second Tier Allowances. When both First Tier and Second Tier Allowances are applicable for a project, review staff must meet relevant SOI Professional Qualification Standards. In accordance with Stipulation II.A, Undertakings composed entirely of work described by the Allowances do not require Section 106 review.

“In-kind,” when referenced in the Allowances for historic materials and features shall be in accordance with the *Standards*, and shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including design, design form, texture, profile, dimensions, proportion, and workmanship. Where severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

I. First Tier Allowances

A. GROUND-DISTURBING ACTIVITIES AND SITE WORK are limited to the proposed activities, described below. Project review should take into account the entirety of the proposed activities including any staging, site access, site cleanup, and possible site work (e.g., grading for positive drainage, vegetation removal) as potential ground-disturbing activities. This is not the entire list of possible ground-disturbing activities; other possible ground-disturbing activities are listed under other activity types in this appendix.

1. Debris and Snow Removal

- a. Debris removal and collection, including removal of snow, tree trunks, limbs and branches, excluding root balls, from public rights of way and public areas as well as the transport and disposal of such waste to existing licensed waste facilities or landfills. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts). This Allowance does not apply to cemeteries or the creation of new or temporary access roads.
- b. Removal of debris from private property, including leaning trees and hanging branches, *provided that structures, including damaged structures, are not affected*, ground disturbance is limited to surface scraping, and in-ground elements, such as driveways, walkways or swimming pools are left in place. This Allowance does not apply to the removal of root balls. This Allowance does not apply to cemeteries.
- c. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.

- d. Dewatering flooded developed areas by pumping.
2. Temporary Structures and Housing
- a. Installation and removal of temporary structures for use as school classrooms, offices, or temporary shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and survivors at the following types of locations:
 - i. Single units on private residential sites when all new utilities are installed above ground and tie into pre-existing utility lines or a mobile utility source;
 - ii. Existing RV/Mobile Home Parks and campgrounds using pre-existing utility hookups or a mobile utility source;
 - iii. Paved areas, such as parking lots at such facilities as conference centers, shopping malls, airports, industrial port facilities business parks, and military bases, when all new utilities are installed above ground and tie into pre-existing utility lines or a mobile utility source; and
 - iv. Existing hard-surfaced sites developed for construction, such as for public housing, office buildings, city parks, ball fields, schools, etc. when all new utilities are installed above-ground and tie into pre-existing utility lines or a mobile utility source.
3. Recreation and Landscaping
- a. Installation of temporary removable barriers (e.g., chain link fences), polyethylene sheeting, or tarps, provided such work will not result in additional damage, irreversible alterations, or significant loss of building fabric or substantial ground disturbance.
 - b. In-kind repair, or in-kind replacement, or minor upgrades/mitigation of bollards and associated protective barriers when placed in the existing footprint.
 - c. Placement of emergency beach berms seaward of improved property where severe erosion has occurred, with work performed under the authority of U.S. Army Corps of Engineers and/or a State environmental enforcement agency's permits for the sand deposit areas and upland or offshore borrow sites, including dredge spoil piles.

B. STANDING STRUCTURES

- 1. Above-ground repair or retrofit of buildings or structures less than forty-five (45)-years old (construction date as noted in the project documentation, or by the Recipient or subrecipient, or by a photograph/site visit).
- 2. Removal of water by physical or mechanical means without ground disturbance.
- 3. Installation of exterior security features and early warning devices on existing light poles or other existing utilities.

4. Substantially in-kind repair or in-kind replacement of metal utilitarian structures (e.g. pump houses, storage buildings) less than forty-five (45)-years old (construction date as noted in the project documentation, or by the Recipient or subrecipient, or by a photograph/site visit), including above-ground pipelines within the existing footprint that do not require pile-driven foundations.
5. Repair or replacement of building contents including furniture, partitions, computers, cabinetry, supplies, and equipment and any other moveable items. This Allowance does not apply to built-in features (e.g. furniture, cabinets, and partitions), archaeological collections, archival and historical records, and museum collections.
6. Sealing or installing flood panels in a building that is less than forty-five (45)-years of age (construction date as noted in the project documentation, or by the Recipient or subrecipient, or by a photograph/site visit) to make it watertight or impermeable to floodwaters.
7. Providing openings and installation of flood resistant materials above ground only in a building that is less than forty-five (45)-years of age (construction date as noted in the project documentation, or by the Recipient or subrecipient, or by a photograph/site visit) to allow in water in conjunction with floodproofing.

C. TRANSPORTATION FACILITIES are limited to the proposed activities, as described below, and staging areas are limited to existing hardscape or gravel surfaces.

1. Roads and Roadways

- a. Construction of temporary emergency access roads to allow for passage of emergency vehicles, per Stipulation II.B, Expedited Review.
- b. Repairs to road slips and landslides that do not require grading of undisturbed soils outside of the original road right-of-way.
- c. Re-establishment, armoring and/or minor upgrading of existing roadway ditches.
- d. In-kind repair or in-kind replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
- e. Installation and removal of temporary traffic control devices, (e.g., pre-formed concrete barriers and fencings).
- f. In-kind repair or in-kind replacement of roadway safety elements such as barriers, guardrails, and impact-attenuation devices. In the case of guardrails, the addition of safety end treatments is permitted.

2. Airports

- a. In-kind repair or in-kind replacement of existing runways, taxiways, roadways, aprons and other hard surfaces (e.g. asphalt, concrete, gravel, and dirt).

- b. In-kind repair of safety components, including lighting bars, beacons, signage, and weather sensors, on airport property.
- 3. Rail Systems and Streetcars
 - a. In-kind repair or in-kind replacement of safety components.
 - b. In-kind repair or in-kind replacement of existing active track systems and in-kind repair of passenger loading areas.
 - c. Repair of crossings, gates, and signals.

D. FEES AND SERVICES

- 1. Reimbursement of a subrecipient's insurance deductible, not to exceed \$2,500.
- 2. Miscellaneous labor costs.
- 3. Rental or purchase of vehicles or other motorized equipment.
- 4. Builder's fees, dumpster rental.
- 5. Fees for architectural and engineering or other design services.

E. UTILITIES

- 1. In urban or developed settings, replacement in the same hole or the relocation of existing utility poles between the edge of sidewalk and the road. Minor mitigation measures (e.g., increased in pole diameter) shall be covered by this Allowance. This Allowance does not apply to decorative or period streetlights.
- 2. In rural settings, replacement of poles located along road shoulders. Minor mitigation measures (e.g., increased in pole diameter) shall be covered by this Allowance.
- 3. In off-road alignments, replacement of power/utility poles within an established right of way that are either replaced in the same hole or replaced adjacent to existing poles. Minor mitigation measures (e.g., increases in pole diameter) shall be covered by this Allowance.
- 4. Repair or replacement of damaged equipment, (e.g. generators, switch boards), and pumping equipment that is less than forty-five (45) years of age (construction date as noted in the project documentation, or by the Recipient or subrecipient, or by a photograph/site visit).
- 5. Installation of exterior security features and early warning devices on existing utility poles on other existing utilities.

II. Second Tier Allowances

A. GROUND DISTURBING ACTIVITIES AND SITE WORK GROUND DISTURBING ACTIVITIES AND SITE WORK are limited to the proposed activities, including the areas

where the activity is staged, as described below. Project review should take into account the entirety of the proposed activities including staging, site access, site cleanup, and possible site work (e.g. grading for positive drainage, vegetation removal) as potential ground-disturbing activities. Other possible ground-disturbing activities are listed under other activity types in this appendix. If portions of the Scope of Work are larger than the existing footprint, a review of the Louisiana Division of Archaeology Cultural Resource (LDACR) Map is required for the entirety of the project location. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied. If a potential ground-disturbing activity including staging, site access, site cleanup, and possible site work (e.g. grading for positive drainage, vegetation removal) falls within a known eligible or unassessed site, standard Project Review per Stipulation II.C., will apply.

1. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems

- a. In-kind repair, or in-kind replacement, or reinforcement of footings, foundations, retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib walls, etc.) if related ground disturbing activities are placed within the existing footprint or immediately adjacent to the existing footprint, if after a review of the LDACR, the area is not within a known eligible or unassessed site and do not require pile driving or fall within the footprint of a previous pile-supported structure. This Allowance does not apply to historic forts.
- b. Installation of perimeter drainage for structures (e.g. French drains).

2. Recreation and Landscaping

- a. In-kind repair or in-kind replacement, or minor upgrades in the same location to recreational facilities (e.g., playgrounds, campgrounds, athletic fields, and parks). This includes features (e.g., fire pits, dump stations and utility hook-ups, above-ground swimming pools, pathways, simple wooden/wire stream crossings, decks), recreational structures and equipment (e.g., benches, bleachers, permanent seating, score boards, batting cages, basketball goals, swing sets, picnic tables), and signage (e.g. street signs, traffic signs, and freestanding facility signage).
- b. In-kind repair or in-kind replacement, or minor upgrades to landscaping elements (e.g., fencing, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps, trellises). Minor mitigation measures (e.g. increases in pole diameter, addition of new safety anchors) will be covered by this Allowance.

3. Piers, Docks, Boardwalks, Boat Ramps, and Dune Crossovers

- a. In-kind repair or in-kind replacement, or minor upgrades such as, codes and standards, to existing piers, docks, boardwalks, boat ramps, stands, gazebos, and dune crossovers when placed in the existing footprint. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.

4. Debris Removal

- a. Removal of woody debris such as branches and limbs, from cemeteries, provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains.
- b. Removal of root balls, except from cemeteries and/or known archeological sites.
- c. Sediment and debris removal from human-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site. This allowance does not apply to historic canals, canal structures, or historic forts.

5. Temporary Structures and Housing

- a. Installation of temporary structures for uses such as classrooms, offices, medical support facilities, or housing, except when located in historic districts or on or immediately adjacent to eligible or unassessed archaeological sites.
- b. Removal of temporary structures provided that FEMA confirms that no eligible or unassessed archaeological site(s) was identified on the property during the installation of the temporary structure(s).

B. STANDING STRUCTURES when proposed activities, including the area where the activity is staged, described below substantially conform to the existing footprint. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.

1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim

- a. In-kind repair or in-kind replacement, provided that the replacement pieces match the original in detail, design, profile, proportion, and materials; restoration; preservation; protection; maintaining of materials or features for interior floors, walls, stairs, ceilings, and/or trim. The Allowance applies to repair of interior finishes, including plaster and wallboard, provided the repair is restricted to damaged areas and does not affect adjacent materials. This Allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster and/or any other character defining interior feature of a National Register listed and/or eligible resource that may require highly specialized study and/or skills for the purpose of repair and/or replacement.
- b. Interior cleaning of surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The Allowance applies to interior finishes, including plaster and wallboard, provided the cleaning is restricted to damaged areas and does not affect adjacent materials, and is appropriately flushed or rinsed to remove residue. This Allowance does not apply to historic brick or stone.
- c. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.

- d. Replacement of damaged plaster and lath with drywall where the plaster is non character-defining detail.
 - e. Repair or replacement of suspended or glued ceiling tile.
 - f. Replacement of wood gymnasium floors with compatible substitute materials.
 - g. Replacement of damaged vinyl floor tile or asbestos floor tile with contemporary floor tile of the same dimension and thickness, and similar texture or pattern.
2. Building Contents
- a. Storage, cleaning and / or handling of archaeological collections, archival and historical records, and museum collections in accordance with FEMA's collection policy.
3. Utilities and Mechanical, Electrical, and Security Systems Allowances do not apply to ground disturbing activities
- a. In-kind repair or in-kind replacement, or limited upgrading of interior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems. This Allowance does not provide for the installation of new exposed ductwork or the lowering of ceilings to accommodate mechanical, electrical, and security systems. This Allowance does not apply to character defining features (e.g. grilles) where exposed to view. Surface-mounted wiring, conduits, or piping is acceptable provided that installation of system hardware does not damage or cause the removal of character-defining architectural features or materials, and can be easily removed in the future. This Allowance does not include increasing the size (e.g. width, depth, length) of existing channels or cuts in historic material.
 - b. The elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment within a structure or on a roof provided that it is not visible from the ground level.
 - c. Installation or replacement of interior fire detection, fire suppression, or security alarm systems. Surface-mounted wiring, conduits, or piping is acceptable provided that installation of system hardware does not damage or cause the removal of character-defining architectural features or materials, and can be easily removed in the future. This Allowance does not include increasing the size (e.g. width, depth, length) of existing channels or cuts in historic materials.
 - d. Installation or replacement of communication and surveillance security systems, such as cameras, closed-circuit television (CCTV), alarm systems, and public address systems. Surface-mounted wiring, conduits, or piping is acceptable provided that installation of system hardware does not damage or cause the removal of character-defining architectural features or materials, and can be easily removed in the future. This Allowance does not include increasing the size (e.g. width, depth, length) of existing channels or cuts in historic materials.
 - e. Installation of building access security devices, such as card readers, enhanced locks, and security scanners (e.g., metal detectors), provided the device does not damage or

cause the removal of character-defining architectural features or materials and can be removed in the future without impacts to significant architectural features.

4. Windows and Doors

- a. In-kind repair of damaged or severely deteriorated windows and window frames, shutters, storm shutters, doors and door frames, and associated hardware, where profiles, elevations, details and materials match those of the originals. Whenever possible original materials should be retained for future information and/or repair and/or reuse.
- b. In-kind replacement of window panes. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This Allowance does not apply to the replacement of intact decorative or archaic glass. Historic windows or glazing may be treated with clear window films.
- c. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with metal blast resistant doors and frames.
- d. Installation of security bars over windows on off-street elevations that does not result in additional damage to character-defining features.
- e. In-kind repair or in-kind replacement of interior or exterior protective shutters, storm screens, screen drops, storm fabric, interior blast shields, and door glazing.
- f. Removal of non-contributing, incompatible windows and doors which were replaced within the past fifty years and their replacement with new window, door, and hardware which meets the *Standards*.
- g. Strengthening of entry doors and bracing of garage doors provided they do not result in altering the existing door form and appearance.
- h. In-kind replacement of greenhouse glass panels.

5. Exterior Walls, Cornices, Porches, and Foundations (for any proposed ground disturbance, refer to Tier II.A)

- a. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
- b. In-kind repair of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail, design, profile, proportion, and material.
- c. In-kind repair or in-kind replacement of signs or awnings.

- d. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage and is reversible.
 - e. Anchoring of walls to floor systems provided the anchors are embedded and not visible on the exterior; are reversible to the greatest extent possible, and does not result in additional damage or alteration to character-defining features.
 - f. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that is as soft or softer than and matches the color, content, rake, and joint width of historic mortar.
 - g. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are not visible on the exterior; is reversible to the greatest extent possible, and does not result in additional damage or alteration to character defining features.
 - h. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, rake, tooling, and joint width where occurring.
 - i. In-kind repair or in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.
6. Roofing
- a. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
 - b. In-kind repair or replacement, or strengthening of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components provided that work does not result in alterations to character defining features.
 - c. Repairs to flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.
 - d. Replacement of three-tab asphalt singles with dimensioned architectural shingles; replacement of cement asbestos shingles with asphalt-based shingles or other roofing of similar appearance to the original such as slate; in-kind replacement of metal roofing materials; replacement of corrugated asbestos panels with corrugated metal panels or other roofing of similar appearance to the original; and replacement of untreated wood shingles or shakes with similar items of fire resistant wood.
7. Weatherproofing and Insulation
- a. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.

- b. In-kind repair or in-kind replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered. This Allowance does not include spray foam insulation.
8. Structural Retrofits (for any proposed ground disturbance, refer to Tier II.A)
- a. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior or within character-defining historic interiors; is reversible to the greatest extent possible, and does not result in additional damage or alterations to character defining features: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.
 - b. Replacement, repair or installation of lightning rods.
 - c. Anchoring of buildings to resist flotation, collapse, and lateral movement provided the anchors are not visible on the exterior, is reversible to the greatest extent possible, and does not result in additional damage or alteration to character defining features.
 - d. The installation of the following upgrades, provided that such upgrades are not visible on the exterior, not attached to character-defining structural elements, and is reversible to the greatest extent possible: installation of tie down straps, hurricane clips; anchoring of fuel tanks; installation of backflow valves; bracing of building contents.
 - e. Bracing and bolting of walls to address hydrostatic and hydrodynamic forces provided the bracing is not visible on the exterior, is reversible to the greatest extent possible and does not result in additional damage or alteration to character defining features.
9. Americans with Disabilities Act (ADA) Compliance
- a. Alterations for ADA compliance in restrooms or other minor interior modifications for ADA compliance (e.g. grab bar, handrails, door openers, and toilet partitions). This Allowance does not apply to modification of staircases that are character-defining.
10. Safe Rooms (for any proposed ground disturbance refer to Tier II.A)
- a. Installation of individual safe rooms within the property limits of a residence or public facility where the installation would occur within the existing building, and does not result in damage or alterations to character defining features or spaces.
 - b. Installation of individual safe rooms on an existing foundation or attached to a current structure less than 45 years of age (construction date as noted in the project documentation, or by the Recipient of subrecipient, or by a photograph/site visit) and is not located within a National Register-listed or eligible historic district.

11. Elevation, Demolition, and Reconstruction

- a. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than forty-five (45)-years of age (construction date as noted in the project documentation by the Grantee or sub-Grantee, or by an photographic evaluation and/or site visit conducted by a Standing Structures specialist so long as the proposed activities are not located within or adjacent to a National Register-listed or eligible historic district or within the viewshed of a listed or eligible National Register property
- b. Ground disturbing activities related to the elevation, demolition and/or reconstruction of buildings or structures so long as the proposed activities substantially conforms to the existing footprint, or immediately adjacent to the existing footprint, if after a review of the LDACR, the area does not fall within one-thousand (1,000)-feet of a known eligible or unassessed archaeological site.

C. TRANSPORTATION FACILITIES are limited to proposed activities when they substantially conform to the existing footprint and staging areas are limited to existing hardscape or gravel surfaces. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.

1. Roads and Roadways: When proposed activities substantially conform to the existing footprint. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied. This Allowance does not apply to a project, including staging areas, on a known eligible or unassessed archaeological site.
 - a. Repair or rebuilding of roads to pre-disaster geometric design standards and conditions using in-kind materials, including maintaining the number and width of lanes, shoulders, medians, curvatures, clearances, curbs, and side slopes (e.g. lag and piling wall, gabions, rock fill, etc.). This Allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches, minor elevation (within 1'-0" of existing elevation) of roadway surface, and other minor mitigation measures. This Allowance does not include alteration of soils or the ground outside of the existing footprint.
 - b. In-kind repair or in-kind replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint and is limited to the existing right-of-way. For stone or brick culverts or arches beneath roadways, this Allowance only applies to in-kind repair.
2. Roads and Roadways (In kind/ADA):
 - a. In kind repair to historic paving materials for roads and walkways using the same materials.

- b. In-kind repair or in-kind replacement, or minor upgrade of road lighting systems, including period lighting fixture styles.
- c. In-kind repair or in-kind replacement, or minor upgrade of road appurtenances such as curbs, shoulders, fences, crosswalks, and sidewalks.
- d. Installation of speed bumps and other traffic calming devices and/or enhanced curbs.
- e. Construction of new ADA ramps, curbs, and crosswalks. This allowance applies within a National Register-listed or eligible historic district, provided the work meets the following:
 - i. Cutting and removal of historic materials is limited to the footprint of the proposed ramp;
 - ii. Historic materials are re-used, if feasible;
 - iii. New paving materials match the physical characteristics of the historic material (size, configuration, color, texture, and material type);
 - iv. Truncated dome mats will be neutral in color to the extent consistent with ADA requirements; and
 - v. Character-defining identification or wayfinding features (e.g., signage, street tiles, historical markers) shall be salvaged and reinstalled in their original locations and orientation, or as close to their original locations as possible. Damaged or missing elements will be replaced with salvaged or in-kind materials.

3. Bridges and Flood Control Structures

- a. Installation of a temporary (Bailey-type) bridge over an existing structure, such as a former road or bridge location, to allow passage of emergency vehicles.
- b. In-kind repair or in-kind replacement of bridges and bridge components (e.g. abutments, wing walls, piers, decks, and fenders) within the existing footprint. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied. This Allowance does not apply to the replacement of historic bridges identified on the Louisiana Department of Transportation website (Louisiana Bridges – National Register Status, dated 11/18/2014):
http://wwwapps.dotd.la.gov/administration/public_info/projects/docs_test/48/documents/Louisiana_Bridges_-_National_Register_Status.pdf.
- c. Removal, replacement and/or installation of flap-gates or flood gates, and bar screeners provided that activities are confined to the existing footprint or does not require new or additional areas to be excavated to construct said features. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.

- d. Elevation of non-historic bridges on existing foundations and footings. This Allowance does not apply to work located within or adjacent to a National Register listed or eligible historic district.

D. UTILITIES, COMMUNICATIONS SYSTEMS, AND TOWERS are limited to distribution and collection systems for water, electricity, gas, and communications, including sewer, water, drains, electrical service and distribution, gas, communications, leaching systems, cess pools, and septic tanks, when proposed repair and replacement activities substantially conform to the existing footprint. Any proposed new or upgraded construction outside of the existing footprint, including associated features and structures, are limited to archaeologically surveyed areas and not on a known eligible or unassessed archaeological site.

1. General

- a. In-kind repair or in-kind replacement, or minor upgrading of utilities within the existing footprint. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.
- b. Installation of new utilities and associated features within existing rights-of-way provided the activities are not within a National Register listed or eligible historic district.
- c. Within the existing rights-of-way, elevation of existing utilities and associated features and structures within existing footprint provided the activities are not within a National Register listed or eligible historic district. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.
- d. Directional boring of new/replacement service line and related appurtenances within existing rights-of-way or utility corridors.
- e. The excavation of slit trenches along existing rights-of-way.
- f. In-kind repair or replacement, or minor upgrades of water towers provided activities substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied. Ground-level facilities that do not expand the footprint by more than 10% may be added or expanded. This allowance does not apply to the replacement of water towers over forty-five (45)-years of age (construction date as noted in the project documentation, or by the Recipient or subrecipient, or by a photograph/site visit).
- g. In off-road alignments, additions of new poles within the existing rights-of-way, such as mid-span poles, and relocation/realignment of segments of power lines to existing roadways. Minor mitigation measures (e.g., increases in pole diameter) shall be covered by this Allowance.

2. Generators and Utilities

- a. In-kind repair or in-kind replacement, or minor upgrades, elevation, and/or installation of generators, HVAC system and similar equipment as long as they are placed or located where not highly visible from the street and activities substantially conforms to the original footprint.
- b. Elevation, and/or installation of generators, HVAC systems and similar equipment if not located within the viewshed of a listed or eligible National Register property.

3. Communication Equipment/Systems and Towers

- a. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
- b. The collocation of communication and security equipment on existing towers and buildings/structures less than forty-five (45)-years in age (construction date as noted in the project documentation, or by the Recipient of subrecipient, or by a photograph/site visit), provided that the work does not increase existing tower height or existing footprint by more than 10%.
- c. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or existing footprint by more than 10%.
- d. Installation of new temporary (not to exceed twelve (12)-months) communications towers and antenna structures provided that the work does not require modification of buildings/structures forty-five (45)-years or older and does not have ground disturbing activities that occur on a known eligible or unassessed archaeological site.
- e. Installation of new communication towers, less than two-hundred (200)-feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures forty-five (45)-years or older, and is not within one-thousand (1,000)-feet of the boundaries of a historic property.

E. WATER RESOURCE MANAGEMENT AND CONTROLS when proposed activities substantially conform to the existing footprint or area immediately adjacent to the existing footprint, if after a review of the LDACR, the area is not within a known eligible or unassessed site and staging areas are limited to existing hardscape or gravel surfaces:

1. Canal Systems

- a. In-kind repair or in-kind replacement to canal systems and in-kind repairs or in-kind replacement of minor associated elements (e.g. weirs, gates, revetments, and safety elements).

2. Dams, Levees, Locks, and Floodwalls

- a. In-kind repair of dams, levees, locks, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs within the existing footprint. If the project substantially conforms to the existing footprint and no known eligible or unassessed site is within the footprint and area of project activities, the Allowance may still be applied.

3. Fish Hatcheries

- a. In-kind repair or in-kind replacement of fish hatcheries and fish ladders.

4. Waste-Water Treatment Lagoon Systems

- a. In-kind repair or in-kind replacement, or minor upgrades of waste-water treatment lagoon systems.

F. WILDFIRE MANAGEMENT Wildfire management activities to include defensible space activities that involve the creation of perimeters and protection through ignition-resistant construction activities, and hazardous fuels reduction activities where all work is being performed in archaeologically surveyed areas with no recorded eligible archaeological site(s).

Appendix C

Treatment Measures

As provided in Stipulation II.C.6 (a), if an Undertaking may adversely affect a historic property, FEMA may propose to resolve the adverse effect through the application of one or more of the Treatment Measures set out below. The selected measures will be developed by FEMA after discussions with the Recipient(s), subrecipient, SHPO, participating Tribes, and other consulting parties, as appropriate, and will be documented in writing. FEMA will provide Recipient(s), subrecipient, SHPO, and/or participating Tribes, and other consulting parties, as appropriate, with the opportunity to object to proposed Treatment Measures as set out in II.C.6 (a) ii. If FEMA, in consultation with Recipient(s), subrecipient, SHPO, participating Tribes, and other consulting parties, determines that a treatment measure, including Alternative Mitigation, not included in the list below is in the public interest and is the most appropriate means to resolve an adverse effect, FEMA will initiate consultation to develop an MOA or a Programmatic Agreement as set out in Stipulation II.C.6 (b) and (c).

The Treatment Measures shall identify, as appropriate: the responsible party/entity that will implement and complete each treatment measure; the scope of work and the standards that will apply to the preparation and distribution of a deliverable; the deliverable(s) (e.g. the quantity, approximate size, materials, content, final ownership/copyrights); measures to ensure that any treatment measure documenting the condition of or requiring the data recovery on the historic property is implemented before the property is adversely affected; any professional qualifications that will be required to prepare deliverable(s) described in the Treatment Measure(s); the repositories and/or parties that will receive copies of a deliverable and the disposition of any deliverable that is not curated; points when FEMA, Recipient, subrecipient, SHPO, and/or participating Tribes, and other consulting parties, as appropriate, will be given the opportunity to review and comment on the deliverable; and timeframes for each review and deliverable.

FEMA will provide written notice to Recipient, subrecipient, SHPO, and/or participating Tribes, and other consulting parties, as appropriate, within sixty (60)-days of the completion of the Treatment Measures as required by Stipulation II.C.6 (a) iii. FEMA shall include information pertaining to the progress of and completion of all Treatment Measures in the annual report pursuant to Stipulation I.B.1 (d), FEMA Roles and Responsibilities.

Any dispute regarding the implementation of a Treatment Measure will be resolved following the process set out in Stipulation IV.B.

Other Federal agencies that will be providing financial assistance for the types of activities covered by this agreement may, with the written concurrence of the Signatories, satisfy their Section 106 responsibilities by accepting the terms of this agreement in writing. Such agency will assume the full responsibility for negotiating and implementing any Treatment Measures.

This Appendix may be amended in accordance with Stipulation IV.A.3 of this Agreement, Amendments.

List of Treatment Measures:

PHOTOGRAPHIC RECORDATION: FEMA, in consultation with SHPO, and/or participating Tribes, and other consulting parties, will select the photographic medium or mediums from the options described below and identify a list of photographs that will serve to document the historic property that will be adversely affected by an Undertaking. The photographic specifications set out below were previously

determined by FEMA, in consultation with SHPO, to meet archival standards and are provided for guidance. Photographic images may include existing drawings and plans. If the parties determine that it is in the public interest to document a property through the preparation of measured drawings, FEMA will initiate consultation to develop an MOA.

I. Recordation for Standing Structures: The responsible entity will photograph the exterior and/or interior, if it is accessible, in the selected photographic format(s) with an emphasis on documenting those portions of the exterior and/or interior that will be altered. The responsible entity will take photographs of the views identified by FEMA, in consultation with Recipient, subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, and will print specifically identified images:

A. Digital Photography: The digital photography and color photographs must comply with the “Best” category of requirements from the National Register Photo Policy Fact Sheet: http://www.nps.gov/nr/publications/bulletins/photopolicy/Photo_Policy_update_2013_05_15.pdf, with the following additional requirements:

1. Image files must be saved as both TIFF and JPEG files.
2. Color images must be produced in RGB (Red/Green/Blue) color mode as 24-bit or 48-bit color files.
3. In addition to the requirements specified by the latest National Register Photo Policy, photographs will be digitally labeled to state the address (name of facility, street number, street name, city, and state); date of photograph; description of view, including direction of camera; and name of photographer/agency.

B. 35mm Black/White and Color Photography: Photographs must be taken with a 35MM SLR Camera or a 35 MM point-and-shoot camera using 35 MM black/white or color film. Photographs taken with disposable cameras are not acceptable.

1. The 35 mm film black/white or color film photography package will include one (1) full set of 35mm film black/white or color photographs printed on acid free paper specifically designed for color prints, the corresponding 35mm film negatives in acid free sleeves.
2. Photographs will be labeled in pencil on the back to state the address, name of facility, street number, street name, city, and state; date of photograph; description of view, including direction of camera; and name of photographer/agency.

C. Large Format Photography: Photographs must be taken with a large-format view camera with ample movement for perspective correction. The minimal complement of lenses includes a sharp rectilinear wide angle, a normal, and a mildly telephoto lens.

1. Acceptable film formats are 4x5, 5x7, and 8x10. Acceptable polyester-based films include those of medium and slow speed (100 and 400 ASA) produced by Kodak, Ilford, and others.
2. The large format film photography package will include one (1) full set of 4 x 5 or 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x 7-inch negatives in acid free sleeves.
3. Photographs will be labeled in pencil on the back to state the address name of facility, street number, street name, city, and state; date of photograph; description of view, including direction of camera; and name of photographer/agency.

- D. Video: A video documentary regarding the historic property may include on-camera interviews, archival footage and/or images, current footage of the historic property, and current footage of other similar historic properties. The content and length of the video will be described in the treatment measure.
- E. Narrative History: A narrative history may be prepared to provide a context for the photographs following the Historic American Building Survey (HABS) Historical Reports: Short or Outline format.
- F. Recordation Package: The recordation package will include a photo log, printed copies of selected photographs, digital copies of photographs, and may include a narrative history. The recordation package may include reproductions of historic photographs, existing building plans, contemporary sketch plans, and/or maps. All materials will be packaged in archival sleeves and boxes. Archival disks will be used for all digital materials.
- G. Review: The responsible entity may informally consult with FEMA and SHPO, and/or participating Tribe(s) to select photographs and other images that will be included in the recordation materials. The process to review and finalize the photographs and other images will be described in the treatment measure.
- H. Distribution: The responsible entity will prepare a minimum of three archival quality copies of the recordation materials and will forward two copies to SHPO and one copy to a willing local archive, such as the Earl K. Long Library, University of New Orleans, Louisiana Special Collections for projects in Orleans Parish. FEMA, in consultation with Recipient, subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, may identify additional archives and/or parties that will receive copies of the recordation materials. The responsible entity will provide FEMA with documentation confirming that the recordation materials have been archived as described in the treatment measure.

DESIGN REVIEW: The purpose of this treatment measure is to determine if there are feasible alternatives that may avoid or minimize a potential adverse effect. FEMA anticipates that it will identify work items that may cause an adverse effect during the review of a project; project worksheet; or subgrant application, at an early stage of project planning, when the design has not been developed. The implementation of this treatment measure will allow the Recipient(s) and subrecipient to continue with plan development, and has the potential to influence the design. FEMA may include this treatment measure with other measures that are intended to mitigate any adverse effects that cannot be avoided.

- II. **Design Review:** Based on FEMA's review of the scope of work and/or plans, if FEMA determines that the proposed Undertaking may adversely affect historic properties FEMA will include a comment in its review of the project; project worksheet; or subgrant application that requires the Recipient and/or subrecipient to provide additional information to FEMA during plan development.
 - 1. FEMA will request that the Recipient(s) and subrecipient revise the scope of work to substantially conform to the *Standards* as described in Stipulation II.C.5.b, or alternatively to identify and assess feasible alternatives, if any, which may avoid or minimize the adverse effect. Prior to project implementation, the Recipient(s) and subrecipient will provide this information to FEMA with sufficiently developed plans, and FEMA will provide the written alternatives assessment and plans to SHPO and/or participating Tribe(s) for a fifteen (15)-day review and comment period.

2. If FEMA, in consultation with Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, determines that plans avoid the potential adverse effect, then design review is complete and the responsible entity is not required to carry out any additional Treatment Measures that may have been identified to offset the potential adverse effect; or
3. If FEMA in consultation with Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, determines that the plans do not avoid an adverse effect, FEMA will forward comments, if any, from SHPO and/or participating Tribe(s), or other consulting parties to the Recipient(s) and subrecipient and request that the subrecipient consider the comments in the development of the final construction documents. Recipient(s) and subrecipient will provide a written response to the comments to FEMA, and FEMA will forward this response to SHPO, and/or participating Tribe(s), and other consulting parties, and the responsible entity will implement any additional Treatment Measures.

III. Public Interpretation

FEMA, the Recipient(s), and subrecipient shall consult with SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to design an educational or public interpretive plan. The educational or public interpretive plan may include historical markers, signs, displays, educational pamphlets, websites, workshops, videos, and other similar mechanisms to educate the public on historic properties within the local community, state, or region. In certain instances SHPO may request that the proposed historical marker conform to the requirements of the Louisiana Historical Marker Program in the Department of Culture, Recreation, and Tourism and request that the responsible entity apply to this program.

IV. Historical Context Statements

FEMA, Recipient(s), and subrecipient shall work with SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to identify the topic; audience; framework of a historic context statement; and format for the final deliverable. The context statement may focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the statewide preservation plan or the National Park Service's National Historic Landmark Thematic Framework.

V. Oral History Documentation

FEMA, Recipient(s), and subrecipient shall work with SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to identify the list of potential interview candidates; the parameters of the oral history project; qualifications of the individual or individuals conducting the oral interviews; the process for any ongoing coordination with SHPO and participating Tribe(s); and format for the final deliverable.

VI. Historic Property Inventory

FEMA, Recipient(s), and subrecipient shall work with SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to establish the appropriate level of effort to accomplish a historic property inventory. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. The survey may

also include archaeological properties. The proposed treatment measure will describe the boundaries of the survey area and the data collection method.

VII. National Register and National Historic Landmark Nominations

FEMA, the Recipient(s), and subrecipient shall work with SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to identify the individual properties that would benefit from a completed National Register of Historic Places (NRHP) or National Historic Landmark (NHL) nomination form. Once the parties have agreed to a property, the responsible entity will continue to coordinate with FEMA, Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, through the drafting of the NRHP nomination form or will contact the NHL Program to begin the nomination process. The SHPO and/or participating Tribe(s) will provide adequate guidance to the responsible entity during the preparation of the nomination form. The proposed treatment measure may include provisions that describe the submission of the completed NRHP nomination to the State Review Board and the Keeper for inclusion in the NRHP.

VIII. Geo-Analysis and/or Geo-References of Historical Maps and Aerial Photographs

FEMA, Recipient(s), and subrecipient shall work with SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to identify the subject for a GIS-based analysis and/or the historical maps and/or aerial photographs for scanning and geo-referencing. Once a subject, list of maps and/or aerial photographs have been agreed upon, the responsible entity will continue to coordinate with FEMA, Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, through the scanning and geo-referencing process and will submit drafts of paper maps and electronic files to FEMA, Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, for review. The final deliverable produced by the responsible entity will include, as appropriate, a 1) paper copy of each scanned image, 2) a geo-referenced copy of each scanned image, 3) original high-resolution digital image of map/aerial photograph in TIFF file format, 4) copies of the user agreements for every geo-referenced image with transferability of use to all parties, 5) a process report outlining the research, and 6) the metadata relating to both the original creation of the paper maps and the digitization process.

IX. Archaeological Research Design and Data Recovery Plan

FEMA shall develop a data recovery plan with a research design in consultation with Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to recover data from archaeological properties listed in, or eligible for listing in the NRHP, which will be adversely affected by ground-disturbing activities that are part of the Undertaking. The research design and data recovery plan will be consistent with the Secretary of the Interior's Guidelines for Archaeological Documentation (http://www.nps.gov/history/local-law/arch_stnds_7.htm) ACHP's recommendations on the recovery of significant information from archaeological sites. <http://www.achp.gov/archguide.html>. All work shall conform to the Louisiana Division of Archaeology's Section 106 Field Methods and Report Standards, as well as the Louisiana Unmarked Human Burial Sites Preservation Act (RS 8:671 et seq). This treatment measure does not apply to the excavation of burials or burial objects.

X. Marketing Plan for Demolition or Abandonment

FEMA in coordination with Recipient(s), subrecipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, shall consult to develop and implement a feasible marketing plan

to advertise the availability of historic structures identified for demolition or abandonment for sale and/or relocation. A good faith and reasonable marketing plan will include publicizing and advertising the property in newspapers, magazines, and/or websites of record for a specific period of time. The plan may require the purchaser to relocate the property outside of the Special Flood Hazard Area (100-year floodplain), and the plan will give preference to a purchaser who proposes to use a professional house mover that follows the recommendations in Moving Historic Buildings by John Obed Curtis (1975, reprinted 1991 by W. Patram for the International Association of Structural Movers) or other similar updated reference material. If a good faith and reasonable marketing effort does not result in the identification of a party or parties willing to purchase and, if necessary, relocate the property, the property may be demolished or abandoned. This marketing plan will be used in conjunction with Treatment Measure A., Recordation Package and FEMA will ensure that the property is recorded prior to relocation or demolition.

XI. Salvage

The subrecipient shall work with FEMA, Recipient, SHPO, and/or participating Tribe(s), and other consulting parties, as appropriate, to identify selective architectural elements that may be salvaged from a building slated for demolition. The elements will be removed at the subrecipient's expense. The salvaged elements may be re-used in another structure or in displays for educational purposes. As an alternative, the subrecipient, in consultation with FEMA, Recipient, SHPO, and/or participating Tribe(s), and other consulting parties will attempt to identify a private or public not-for-profit local or regional historic preservation organization interested in receiving a donation of the architectural features. The organization may sell the architectural features to the general public for the specific purpose of raising funds to support future historic preservation activities in the region. Any income derived by the subrecipient from the sale of architectural features may be considered project income by the program to be deducted from proceeds of the grant. Salvage activities shall not occur at or below grade in order to avoid affecting unevaluated archaeological resources.

FEDERAL EMERGENCY MANAGEMENT AGENCY

**KEVIN R
JAYNES**

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Kevin Jaynes
Regional Environmental Officer
Region 6